

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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CLAUDE REESE,

Plaintiff,

-against-

**PROPOSED JOINT  
PRE-TRIAL ORDER**

ROBERT WILLIAMSON,  
STEVEN DRAPALA,  
RICHARD BODNAR,  
JUSTIN FRIEDLANDER,  
CLIFFORD DONOVAN,  
DANNY LAWRENCE,  
JOSEPH BURNS,  
ROBERT GARCIA,  
MICHAEL PADGETT,  
GLENROY RILEY and  
ANDREW MILYKO,

22 Civ. 10494 (PMH)

Defendants.

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The parties hereby submit this Proposed Joint Pre-Trial Order.

**i. The full caption of the action.**

The caption of the action is as above.

**ii. The amount of trial time that each party anticipates needing for their case in chief.**

Plaintiff anticipates needing two days to complete his case in chief. Defendants anticipate needing two days to complete their case in chief.

**iii. The names, addresses (including firm names), email addresses, and office and mobile telephone and fax numbers of trial counsel.**

Trial counsel for Plaintiff:

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**iv. A brief statement by Plaintiff as to the basis of subject matter jurisdiction, and a brief statement by each other Party as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all authority relied on and relevant facts as to citizenship and jurisdictional amount.**

For Plaintiff: This action arises under 42 U.S.C. § 1983 and alleges violations of Plaintiff's federal civil and constitutional rights; specifically, rights guaranteed under the First and Eighth Amendments to the United States Constitution. Jurisdiction is conferred on this Court by 28 U.S.C. § 1343, which provides for original jurisdiction over all actions brought pursuant to § 1983, and by 28 U.S.C. § 1331, which provides jurisdiction over all cases brought pursuant to the Constitution and laws of the United States.

For Defendants: Defendants do not dispute subject matter jurisdiction.

**v. A brief summary by each party of the claims and defenses that party has asserted that remain to be tried, without recital of evidentiary matter but including citations to all statutes relied on. Such statements shall include all claims and defenses previously asserted which are not to be tried.**

For Plaintiff: Plaintiff brings three claims pursuant to 42 U.S.C. § 1983.

Plaintiff's first claim against Defendants is for the use of excessive force in violation of his Eighth Amendment right not to be subject to cruel and unusual punishment.

Plaintiff's second claim against Defendants is for deliberately failing to intervene to prevent and/or stop the use of excessive force by their fellow officers, despite having reasonable opportunities to do so, also in violation of his Eighth Amendment right not to be subject to cruel and unusual punishment.

Plaintiff's third claim for relief against Defendants is for issuing false misbehavior reports to Plaintiff in retaliation for Plaintiff having exercised his First Amendment right of free speech and his right to petition the government for redress of grievances.

For Defendants: Defendants deny that they used excessive force against Plaintiff. Defendants further deny that they failed to intervene in the use of excessive force. Defendants assert that any use of force against Plaintiff was reasonable and necessary under the circumstances. Defendants Williamson and Friedlander further deny that they retaliated against Plaintiff. In the alternative, Defendants may be entitled to qualified immunity on Plaintiff's claims. Defendants' entitlement to qualified immunity is an issue of law to be decided by the Court based upon the facts found by the jury. If applicable, Defendants will prepare proposed special interrogatories for the jury, based on the evidence presented at trial, prior to the charge conference. See Cowan v. Breen, 352 F.3d 756, 764-65 n. 8 (2d Cir. 2003).

**vi. A statement by each Party as to whether the case is to be tried with or without a jury, and the number of trial days needed.**

The parties agree this case is to be tried with a jury. The anticipated length of the trial will be four days.

**vii. A statement as to whether all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).**

The parties have not all consented to trial of the case by a magistrate judge.

**viii. Any stipulations of fact or law that have been agreed to by the parties.**

The parties agree to the following stipulations of fact:

1. On May 1, 2020, Plaintiff was incarcerated at Otisville Correctional Facility.
2. On May 1, 2020, Defendants Robert Williamson, Steven Drapala, Andrew Milyko, Justin Friedlander, Clifford Donovan, Danny Lawrence, Joseph Burns, Robert Garcia, and Michael Padgett were all employed by the New York State Department of Corrections and Community Supervision (DOCCS) as officers at Otisville Correctional Facility.
3. On May 1, 2020, Defendants Glenroy Riley and Richard Bodnar were employed by DOCCS as correction sergeants.
4. On May 1, 2020, Plaintiff was involved in a use-of-force incident at Otisville Correctional Facility.
5. On May 1, 2020, two misbehavior reports were issued to Plaintiff.
6. Plaintiff never made any grievances or complaints about the conditions of his confinement, formal or informal, directly to Defendants Williamson or Friedlander.
7. Defendant Robert Williamson began at Otisville Correctional Facility on 9/30/1993, transferred to Eastern Correctional Facility on 4/14/2014, and then transferred back to Otisville on 2/4/2019.

The parties agree to the following statements of law:

1. Without conceding that Plaintiff has any valid claims pursuant to 42 U.S.C. § 1983, all parties stipulate that, at all times relevant herein, all Defendants were acting under color of state law.

**ix. A list of the witnesses each party expects to call on its case in chief, including a very brief description of the witness's role and/or the subject matter of his or her anticipated testimony, the amount of court time needed for each witness, and a statement as to whether any other party objects to the witness.**

Plaintiff intends to offer testimony from the following witnesses:

<b>Witness</b>	<b>Role/Subject Matter</b>	<b>Est. Court Time</b>	<b>Objection</b>
Claude Reese	Plaintiff / The underlying incident	60 minutes	
Robert Williamson	Defendant / The underlying incident	20 minutes	
Steven Drapala	Defendant / The underlying incident	20 minutes	
Richard Bodnar	Defendant / The underlying incident	20 minutes	
Justin Friedlander	Defendant / The underlying incident	20 minutes	
Clifford Donovan	Defendant / The underlying incident	20 minutes	
Danny Lawrence	Defendant / The underlying incident	20 minutes	
Joseph Burns	Defendant / The underlying incident	15 minutes	
Robert Garcia	Defendant / The underlying incident	15 minutes	
Michael Padgett	Defendant / The underlying incident	15 minutes	
Glenroy Riley	Defendant / The underlying incident	15 minutes	
Andrew Milyko	Defendant / The underlying incident	15 minutes	
Tanisha Harris	OSI Investigator / Investigation into the underlying incident	15 minutes	
Gregory Radcliffe (96A7960) (To testify remotely)	Inmate in 118-2 and Witness / The underlying incident	10 minutes	
Reuben Febus	OSI Investigators / The statement taken by them of Luis Torres	15 minutes	
Nurse Page	Treated Plaintiff's Injuries / The underlying incident and treatment to Plaintiff's injuries rendered	10 minutes	
Doctor Gage	Treated Plaintiff's Injuries / The underlying incident and treatment to Plaintiff's injuries rendered	10 minutes	

Asia Reese	Plaintiff's Wife / The underlying incident	10 minutes	
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Defendants intend to offer testimony from the following witnesses:

<b>Witness</b>	<b>Role/Subject Matter</b>	<b>Est. Court Time</b>	<b>Objection</b>
Robert Williamson	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Steven Drapala	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Richard Bodnar	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Justin Friedlander	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Clifford Donovan	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Danny Lawrence	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	20 minutes	
Joseph Burns	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	15 minutes	
Robert Garcia	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	15 minutes	
Michael Padgett	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	15 minutes	
Glenroy Riley	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Sergeant and his duties and responsibilities	15 minutes	
Andrew Milyko	Defendant / To testify about his actions and observations on May 1, 2020, as well as his training to be a Correction Officer and his duties and responsibilities	15 minutes	
C.O. Wayne June	Correction Officer / To testify about his actions and observations on May 1, 2020	10 minutes	
Nurse Page	Treated Plaintiff's Injuries / The underlying incident and treatment to Plaintiff's injuries rendered	10 minutes	
Doctor Gage	Treated Plaintiff's Injuries / The underlying incident and treatment to Plaintiff's injuries rendered	10 minutes	

x. For testimony to be taken from unavailable witnesses pursuant to Fed. R. Civ. P. 32(a)(4), a page and line designation by each party of witness deposition testimony to be offered in its case in chief, with any cross-designations and objections by any other party.

For Plaintiff:

<b>Witness</b>	<b>Page/Line Designation(s)</b>	<b>Cross-Designation(s)/Objection(s)</b>
Curtis Howland	13:10-22	
Curtis Howland	15:11-16:19	
Curtis Howland	24:8-25:23	
Curtis Howland	26:18-30:9	
Curtis Howland	30:10-31:15	
Curtis Howland	31:16-32:24	
Curtis Howland	32:24-37:25	
Curtis Howland	38:4-6	
Curtis Howland	38:13-41:8	
Curtis Howland	41:19-44:24	
Curtis Howland	44:3-45:7	
Curtis Howland	45:11-48:18	
Curtis Howland	48:19-49:6	
Curtis Howland	49:12-53:17	
Curtis Howland	54:21-64:5	
Curtis Howland	65:9-15, 23-25	
Curtis Howland	66:11-14	
Curtis Howland	67:2-68:5, 12-15	
Curtis Howland	68:23-69:1	
Curtis Howland	69:11-23	

For Defendants: None.

xi. A list by each party of exhibits to be offered in its case in chief, with a notation indicating the basis for admissibility of each exhibit with citation to Fed. R. Evid., as well as a notation indicating exhibits to which there is an objection and the basis therefor. The failure to include a notation and basis may be deemed a waiver of any objection.

Joint Exhibits:

EX.	Description	Bates Range
A	Plaintiff's Misbehavior Reports	REESE-DEF 000023 – 000025
B	Inmate Injury Report	REESE-DEF 000036
C	Use of Force Reports	REESE-DEF 000026 – 000032
D	Phone call from Plaintiff Claude Reese to Asia Reese, dated May 1, 2020	REESE-DEF 000398
E	Orange Regional Medical Center Chart	REESE-DEF 000214 – 000242
F	Photos of Plaintiff, taken on May 1, 2020	REESE-DEF 000042

For Plaintiff:

Ex. No.	Description	Bates No(s).	Basis	Status/Objection(s)
1	Transcript of phone call from Plaintiff Claude Reese to Asia Reese	N/A	FRE 401	Admitted.
2	Phone call from Luis Torres to Asia Reese, dated May 1, 2020	DEF 399	•FRE 401 •FRE 803	403: Prejudicial; 602: Personal knowledge; 801: Hearsay
2A	Transcript of phone call from Luis Torres to Asia Reese	N/A	•FRE 401 •FRE 803	403: Duplicative and prejudicial; 602: Personal knowledge; 801: Hearsay
3	Phone call from Luis Torres to his father, dated May 1, 2020	DEF 400	•FRE 401 •FRE 803	403: Prejudicial; 602: Personal knowledge; 801: Hearsay
A	Transcript of phone call from Luis Torres to his father	N/A	•FRE 401 •FRE 803	403: Prejudicial; 602: Personal knowledge; 801: Hearsay



5	Use of Force photos of Defendant Friedlander	DEF 43-45	•FRE 401 •FRE 803	Admitted.
6	Use of Force photo of Defendant Williamson	DEF 39	•FRE 401 •FRE 803	Admitted.
7	Photos of 118-2 dorm and draft area	DEF 386-396	•FRE 401 •FRE 803	Admitted.
8	Escort video taken from reception to van (0:00-3:55)	DEF 359	•FRE 401 •FRE 803	401: Relevance
9	Escort video taken inside van en-route to hospital (2:50-6:10)	DEF 360	•FRE 401 •FRE 803	401: Relevance
10	Escort video taken inside van on hospital grounds	DEF 361	•FRE 401 •FRE 803	401: Relevance
11	Escort video of van arriving at hospital entrance (0:00-0:30)	DEF 362	•FRE 401 •FRE 803	401: Relevance
12	Escort video depicting Plaintiff already outside of van (0:00-0:09)	DEF 363	•FRE 401 •FRE 803	401: Relevance
13	Unusual Incident Report	DEF 120-124	•FRE 401 •FRE 803	Admitted.
14	Logbook for 118-2	DEF 366-370	•FRE 401 •FRE 803	Admitted.
15	Logbook for 121-2	DEF 382-386	•FRE 401 •FRE 803	Admitted.
16	To/From Memorandum from Howland to Bodnar, dated May 1, 2020	DEF 34, 135	•FRE 401 •FRE 803	Admitted.
17	To/From Memorandum from Howland to Bodnar, dated May 11, 2020	DEF 148	•FRE 401 •FRE 803	Admitted
18	Use of Force Report-Part B-Addendum, dated May 1, 2020	DEF 127, 210-211	•FRE 401 •FRE 803	Admitted.
19	Inmate pedigree sheet	DEF 037	•FRE 401 •FRE 803	401: Relevance; 801: Hearsay
20	Employee injury Report—Williamson, dated May 1, 2020	DEF 143	•FRE 401 •FRE 803	Admitted.
21	Employee injury Report—Friedlander	DEF 41	•FRE 401 •FRE 803	Admitted.
22	Ambulatory Health Record	PLF 890-939	•FRE 401 •FRE 803	Admitted.
23	Request & Report of Consultation	DEF 207	•FRE 401 •FRE 803	Admitted.
24	UHS Wilson Memorial Hospital Records	DEF 467-1062	•FRE 401 •FRE 803	

For Defendants: None.

**xii. A statement of the relief sought, including damages claimed, itemizing each component or element of the damages sought with respect to each claim, and including the manner and method used to calculate the claimed damages.**

Plaintiff seeks against all Defendants compensatory damages for his pain and suffering and loss of enjoyment of life, punitive damages, and attorney's fees pursuant to 42 U.S.C. § 1988, as well as costs and disbursements of this lawsuit.

Defendants seek dismissal of all remaining causes of action, as well as costs and disbursements of defending the lawsuit.

**xiii. A statement as to whether the parties consent to a less than unanimous verdict.**

The parties do not consent to less than a unanimous verdict.

Dated: New York, New York  
August 12, 2024

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**SO ORDERED:**

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Philip M. Halpern, U.S.D.J.